

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRD DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION NO : 23220 of 2003

Between:

- 1 Sunkireddy Subba Reddy, S/o.Pichi Reddy,
R/o.Ramakrishnapuram, Lingasamudram Village and Mandal,

Prakasam District.

- 2 Sunkireddy Surendra Reddy, S/o.Pichi Reddy,
R/o.Ramakrishnapuram, Lingasamudram Village and Mandal,

Prakasam District.

- 3 Gogula Chinna Kondaiah, S/o.Musalaiah,
R/o.Ramakrishnapuram, Lingasamudram Village and Mandal,

Prakasam District.

..... PETITIONERS

AND

- 1 The District Collector, Prakasham District.
- 2 The Revenue Divisional Officer, Kandukur, Prakasham District.
- 3 The Mandal Revenue Officer, Lingasamudram Mandal,

Prakasham District.

- 4 Iragani Venkaiah, S/o.Gandhi,
R/o.Jangamreddypalem Village, Lingasamudram Mandal,

Prakasham District.

(R-4 is impleaded as per Court order Dt.30.8.2004

in WPMP.NO.8992 of 2004).

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ or Writs, order or direction, declaring the action of the respondents in seeking to dispossess the petitioners, by

demolishing the structures of the petitioners' premises in Sy.No.117/1 of Lingasamudram Village and Mandal, Prakasham District as otherwise than in due process of law, as illegal, arbitrary and without jurisdiction.

Counsel for Petitioners: MR. N.SREEDHAR REDDY

Counsel for Respondents 1 to 3: GOVERNMENT PLEADER FOR REVENUE

Counsel for Respondent No.4: MR. B.PARAMESWARA RAO

The Court made the following:

-
-
-
-

ORDER:

-

The Mandal Revenue Officer and Mandal Executive Magistrate, Lingasamudram Mandal, Prakasham District sent a report to the Sub-Divisional Executive Magistrate, Kandukur alleging that the petitioners herein and others are trying to encroach the burial ground poramboke in Survey No.117/1 admeasuring Ac.4-40 cts classified as 'burial ground poramboke' as per village accounts and therefore, he initiated action under Section 145 of the Code of Criminal Procedure, 1973 (for brevity, 'Code'), and further directed the Station House Officer, Lingasamudram, to stop forthwith the construction of houses at which stage they stand.

The petitioners herein, who are alleged to have been encroached upon the land, have now approached this Court alleging that after the second respondent passed orders on 10-9-2003, the Mandal Revenue Officer, on 31-10-2003, directed the petitioners and others to vacate the land and also threatened to demolish the structures. Therefore, they approached this Court seeking a declaration that the action of the respondents in trying to dispossess and demolishing the structures is illegal and arbitrary.

Though respondents 1 to 3 have not filed any counter-affidavits, the fourth respondent, who is a villager of Jangamreddypalem village, while denying the allegations made by the petitioners, asserts that there are no encroachments in Survey No.117/1, but the petitioners and about 100 persons have raised constructions surrounding the land earmarked for burial ground.

Heard the learned Counsel for petitioners, learned Assistant Government Pleader for Revenue and learned Counsel for the fourth respondent.

A reading of the proceedings of the Sub-Divisional Executive Magistrate, Kandukur, dated 10-9-2003 would show that there are 24 encroachments in the land in Survey No.117/1 and therefore, the second respondent while ordering the stoppage of further constructions, directed the Mandal Revenue Officer, Lingasamudram Mandal as well as the Station House Officer, Lingasamudram, to prevent further encroachments. No direction was given prohibiting anybody from entering the burial ground or directing any authority to demolish the houses or evict forcibly. Therefore, the alleged action of the Mandal Revenue Officer in visiting the place on 31-10-2003 and threatening with demolition, is not in tune with the orders of the Sub-Divisional Executive Magistrate in M.C.No.6 of 2003. The respondents shall desist from taking any such action. Further, this Court also directs the petitioners not to make any further constructions or not to instigate further encroachments in the burial ground.

The Writ Petition, with the above observations and directions, is accordingly disposed of. No costs.

V.V.S. RAO, J

Dated: November 03, 2004.

Ak

SPECIAL OFFICER

// TRUE COPY //

SECTION OFFICER

To

1. The District Collector, Prakasam District.
2. The Revenue Divisional Officer, Kandukur, Prakasham District.
3. The Mandal Revenue Officer, Lingasamudram Mandal,

Prakasham District.

4. Two CCs to the Government Pleader for Revenue, High Court

Buildings, Hyderabad (O.U.T).

5. Two CD copies.